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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **CRL.M.C. 1165/2020 & CRL.M.A. 4551-4552/2020**

AMIT JAIN & ANR.

..... Petitioners

Through: Mr. Pradeep Jain, Mr. Shubhankar,
Mr. Aakarsh & Mr. Kunal Prakash,
Advocates.

versus

SERIOUS FRAUD INVESTIGATION OFFICE Respondent

Through: Ms. Maninder Acharya, ASG with
Mr. Anurag, Mr. Shaurya, Mr.
Krishnesh, Mr. Syed, Advocates.

CORAM:

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

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02.03.2020

CRL.M.A. 4552/2020 (Ex.)

Exemption allowed subject to all just exceptions.

The application stands disposed of.

CRL.M.C. 1165/2020

Vide the present petition, the prayer made by the petitioners is to the effect that the impugned orders dated 17.01.2020 and 20.02.2020 of the learned ASJ, Dwarka in CC No.720/2017 be set aside and that the interim protection be granted to the petitioners which interim protection is sought till the time of consideration of the anticipatory bail applications filed by the petitioners stated to be pending before the learned Trial Court as mentioned in ground F of the petition.

The petitioners herein are the accused nos.24 & 25 in the said complaint case and vide order dated 17.01.2020, in view of the absence of the petitioners herein before the learned Trial Court, non bailable warrants were directed to be issued against the petitioners in view of the submission that had been made on behalf of the said petitioners who were not present and on whose behalf there was no application for exemption also that had been filed and submit that the petitioners apprehended that they would be taken into custody if they appear before the Court qua which it was observed vide order dated 17.01.2020 by the learned Trial Court to the effect that the said protection was totally unfounded in view of the interim protection that had already been granted vide order dated 07.06.2019.

The order dated 07.06.2019 of the learned Trial Court expressly observes to the effect:-

“Anticipatory bail application has been filed on behalf of the accused No.24 and 25. Copy supplied. Now to come up for arguments on anticipatory bail application on 22.07.2019. No coercive steps be taken till that time.”,

indicate thus, that it had been specifically directed that no coercive steps be taken till the matter was taken on the date 22.07.2019 qua the application filed by the applicants seeking the grant of anticipatory bail which is stated to have been extended from time to time.

Vide order dated 20.02.2020, the prayer made by the applicants seeking cancellation of the non bailable warrants ordered to be issued against them vide order dated 17.01.2020,- was declined with it

having *inter alia* been observed to the effect:-

“The aforesaid plea raised in the applications under consideration, would hardly constitute any sufficient ground for non-appearance of these two accused persons on 17.01.2020. What is more pertinent to note is that these two applicants, who are stated to be brothers, claimed that their Aunt had died on 16.01.2020 and her funeral took place on 17.01.2020 but no document was produced or is filed alongwith application to show that funeral took place on 17.01.2020, what to say of filing copy of death certificate of their Aunt on record. Hence, Court does not find any sufficient ground being disclosed by these two applicants regarding their non-appearance before the Court on 17.01.2020. Consequently, both these applications also stand dismissed.”

It has been submitted on behalf of the applicants that the applicants could not put in appearance before the learned Trial Court on the date 17.01.2020 in view of the demise of their Aunt Ms. Sharda Jain on 16.01.2020 and in as much as, the funeral of their Aunt was performed on 17.01.2020.

Placed on record along with the present petition at Annexure-5 is the copy of the death certificate of Ms. Sharda Jain issued on 24.02.2020 qua her demise on 16.01.2020 as issued by Nagar Nigam, Saharanpur. Placed on record also is a document to show that there was a Shradhanjali Sabha to be arranged on 20.02.2020.

It has been submitted on behalf of the petitioners in reply to a specific Court query that the submission that had been made on 17.01.2020 on behalf of the petitioners by the learned counsel that had been made to the effect that the petitioners were not present, in as

much as they apprehended arrest despite order dated 07.06.2019 be not taken into account in view of the factum that the petitioners were in fact not present due to the demise of their Aunt.

It has been submitted on behalf of the respondent by the learned ASG that the prayer is opposed in view of the conduct of the petitioners and the submission made on the date 17.01.2020 on behalf of the petitioners by their counsel.

Inter alia reliance is placed on behalf of the petitioners on the application that had been filed before the learned Trial Court seeking the cancellation of the non bailable warrants which application had been filed on 24.01.2020 with submissions similar as made now to the effect that the petitioners non-presence on the date 17.01.2020 was due to the demise of their aunt on 16.01.2020 and due to her funeral held on 17.01.2020 and that the counsel for the petitioners before the learned Trial Court could not make the said submission and could not bring forth the said requisite application for exemption during the time when the matter had been taken up.

In the interest of justice, in view of the factum that vide order dated 07.06.2019, the applicants had in fact had been granted prevention of coercive action being taken against them till the consideration of their anticipatory bail application which was then scheduled for the date 22.07.2019 with the interim protection having been extended thereafter as submitted on behalf of the petitioners, non bailable warrants that have been directed to be issued against the petitioners arrayed as accused Nos. 24 & 25 before the learned Trial

Court in relation to CC No.720/2017 are thus, revoked and the petitioners are directed to appear before the learned Trial Court on the date fixed by the learned Trial Court.

Till the disposal of the anticipatory bail application of the applicants, the applicants be not apprehended and as prayed, on behalf of the respondent, the applicants/petitioners shall appear before the learned Trial Court on each and every date of hearing and shall seek no adjournment.

The cancellation of the non bailable warrants hereinabove however, does not amount to any expression on the merits or demerits of the prayer made by the petitioners seeking the grant of anticipatory bail.

The petition is disposed of.

Copy of the order be given Dasti under the signatures of the Court Master, as prayed.

ANU MALHOTRA, J

MARCH 02, 2020

'neha chopra'